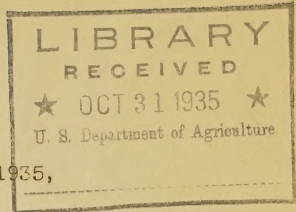


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C82 QP
Docket No. A.P. 10
Cotton

ORDER OF PROCEDURE
FOR HEARING AT
MEMPHIS, TENNESSEE, BEGINNING OCTOBER 11, 1935,
ON A PROPOSED ADJUSTMENT PROGRAM
FOR COTTON



This hearing, held under the Agricultural Adjustment Act, approved May 12, 1933, as amended, relates to a Cotton Adjustment Program to follow immediately after the program now in operation. Pertinent provisions of the law are set out in full in Appendix I attached hereto.

This hearing was called to begin on October 11, 1935, at 10 o'clock A.M. in the auditorium of the Chisca Hotel at Memphis, Tennessee. Notice of this hearing was issued on September 27, 1935, by the Secretary of Agriculture. In said notice the Secretary of Agriculture determined (in accordance with section 201 (c) of General Regulations, Series B, No. 1, prescribed under the Agricultural Adjustment Act by the Secretary of Agriculture on September 17, 1935, and approved by the President on September 18, 1935) that an emergency exists which requires a shorter period of notice than the fifteen days set forth in said section 201 (c) and determined that the period of notice given on said notice is reasonable in the circumstances.

The following shall be the course of procedure for the hearing, provided that such changes shall be made therein by the Presiding Officer, if conditions arise which, in his judgment, necessitate such changes, as will assure a fair hearing which will adduce all the pertinent facts which can be testified to by the persons who offer themselves as witnesses at the hearing and will result in each such witness being heard:

I. Filing appearances. At the opening of the hearing, appearances filed in writing will be recorded.

II. Opening statements:

- (a) Reading of Notice of Hearing, Designation of Presiding Officers, and outline of this Order of Procedure.
- (b) Outline of statutory provisions applicable.
- (c) Other explanatory statements by the Presiding Officer.

III. Questions to be considered at this hearing:

FIRST QUESTION: Whether the current average farm price for cotton is less than the fair exchange value thereof.

SECOND QUESTION: Whether the average farm price for cotton is likely to be less than the fair exchange value thereof for the period in which the production of said commodity during the current or next suc-

ceeding marketing year is normally marketed.

THIRD QUESTION: Whether the conditions and factors relating to the production, marketing, and consumption of cotton are such that the exercise, with respect to cotton, of any one or more of the powers conferred upon the Secretary of Agriculture under subsections (2) and (3) of Section 8 of the Agricultural Adjustment Act, as amended, will tend to effectuate the declared policy of said Act.

FOURTH QUESTION: Whether the exercise of the power to provide for adjustment in acreage or in the production for market, or both, of cotton, through agreements with producers of cotton, or by other voluntary methods, and to provide for rental or benefit payments in connection with such agreements or other voluntary methods, is administratively practicable and best calculated to effectuate the declared policy of said Act.

IV. Testimony and evidence. Persons desiring to present testimony or evidence shall be required to do so under oath or affirmation, and persons desiring to present written statements shall be required to verify the same by affidavit.

A. Rules governing admission of testimony and evidence:

1. Testimony and evidence upon the affirmative of any one or all of the foregoing questions will be first heard and received. In the course of his testimony any interested party may propose provisions to be included in a Cotton Adjustment Program to succeed the present program.

2. After all the testimony and evidence upon the affirmative of the foregoing questions has been presented and received, testimony and evidence upon the negative of any one or all ^{of} the foregoing questions will be heard and received.

3. After all the negative testimony and evidence has been presented and received, those persons who gave testimony and/or presented evidence upon the affirmative or other persons may give testimony and/or present evidence in rebuttal.

4. Representatives of the Department of Agriculture may ask questions of any witness relating to any testimony given, or any evidence presented in support of any testimony, to bring out all the facts.

5. With a view to orderly procedure, any question at any stage of the hearing asked from the floor, by or on behalf of any interested person, must be put to the Presiding Officer, who shall determine whether such question is a proper one to be put to the witness; if he so determines, the Presiding Officer will put the question to the witness. If he determines otherwise, the question will not be put to the witness. Only questions which will tend to bring out all the facts or clarify testimony or evidence will be put to the witness.

THE HISTORY OF THE UNITED STATES

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b. Closing or adjournment:

After all the testimony and evidence relating to the foregoing questions which is tendered at the hearing has been taken, the hearing shall be closed or adjourned, as the Presiding Officer shall determine.

V. The Presiding Officer, if he determines it advisable or necessary, may limit the time to be devoted to this hearing or to any question or questions to be considered therein, or the time which will be allowed to any witness.

VI. Since the purpose of this hearing is to procure evidence or additional evidence for the record of evidence of the facts upon which the Secretary of Agriculture may act under Section 8 of the Act, it will not be appropriate to present arguments upon issues of law or policy at this hearing. If any interested person desires to raise or discuss any question of law or policy in connection with any question considered at the hearing, or raised as a result of the hearing, or to present additional facts, he may file a written argument on such questions of law or policy or a written statement of such additional facts with the Presiding Officer at the close of the hearing or in the Office of the Hearing Clerk, Room 4725 South Building, Department of Agriculture, Washington, D. C., within such time thereafter as the Presiding Officer may determine and announce. In order that such written argument or statement may be fully and promptly made available for the consideration of those persons concerned with considering the record of this hearing, at least ten copies of such written argument or statement should be filed, but any lesser number of such copies tendered shall nevertheless be accepted and filed. A copy of any such written argument or statement shall immediately be placed on file in said Office of the Hearing Clerk, and thereafter shall be open to public inspection at all reasonable times.

VII. All testimony and statements shall be directed toward and confined to the matters set forth in the questions stated above. A full verbatim stenographic report of this hearing shall be made and filed in said Office of the Hearing Clerk. The control of the manner of presentation of testimony and evidence at this hearing shall rest entirely with the Presiding Officer.

Prescribed at Washington, D. C., September 30, 1935.

Robert K. McConnaughey) Presiding Officers.
Robert Orr III)

Approved by the Secretary of Agriculture September 30, 1935.

APPENDIX I.

Sections 2 and 8 of the Agricultural Adjustment Act, as amended, which are the sections pertinent to this hearing, read as follows:

"Sec. 2. It is hereby declared to be the policy of Congress-

"(1) Through the exercise of the powers conferred upon the Secretary of Agriculture under this title, to establish and maintain such balance between the production and consumption of agricultural commodities, and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities in the base period; and, in the case of all commodities for which the base period is the pre-war period, August 1909 to July 1914, will also reflect current interest payments per acre on farm indebtedness secured by real estate and tax payments per acre on farm real estate, as contrasted with such interest payments and tax payments during the base period. The base period in the case of all agricultural commodities except tobacco and potatoes shall be the prewar period, August 1909-July 1914. In the case of tobacco and potatoes, the base period shall be the postwar period, August 1919-July 1929.

"(2) To protect the interest of the consumer by (a) approaching the level of prices which it is declared to be the policy of Congress to establish in subsection (1) of this section by gradual correction of the current level at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and (b) authorizing no action under this title which has for its purpose the maintenance of prices to farmers above the level which it is declared to be the policy of Congress to establish in subsection (1) of this section."

"Sec. 8. (1) Whenever the Secretary of Agriculture has reason to believe that:

"(a) The current average farm price for any basic agricultural commodity is less than the fair exchange value thereof, or the average farm price of such commodity is likely to be less than the fair exchange value thereof for the period in which the production of such com-

modity during the current or next succeeding marketing year is normally marketed, and

"(b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that the exercise of any one or more of the powers conferred upon the Secretary under subsections (2) and (3) of this section would tend to effectuate the declared policy of this title,

he shall cause an immediate investigation to be made to determine such facts. If, upon the basis of such investigation, the Secretary finds the existence of such facts, he shall proclaim such determination and shall exercise such one or more of the powers conferred upon him under subsections (2) and (3) of this section as he finds, upon the basis of an investigation, administratively practicable and best calculated to effectuate the declared policy of this title.

"(2) Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall provide, through agreements with producers or by other voluntary methods,

"(a) For such adjustment in the acreage or in the production for market, or both, of any basic agricultural commodity, as he finds, upon the basis of the investigation made pursuant to subsection (1) of this section, will tend to effectuate the declared policy of this title, and to make such adjustment program practicable to operate and administer, and

"(b) For rental or benefit payments in connection with such agreements or methods in such amounts as he finds, upon the basis of such investigation, to be fair and reasonable and best calculated to effectuate the declared policy of this title and to make such program practicable to operate and administer, to be paid out of any moneys available for such payments or subject to the consent of the producer, to be made in quantities of one or more basic agricultural commodities acquired by the Secretary pursuant to this title.

"(3) Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall make payments, out of any moneys available for such payments, in such amounts as he finds, upon the basis of the investigation made pursuant to subsection (1) of this section, to be fair and reasonable and best calculated to effectuate the declared policy of this title:

"(a) To remove from the normal channels of trade and commerce quantities of any basic ag-

gricultural commodity or product thereof;

"(b) To expand domestic or foreign markets for any basic agricultural commodity or product thereof;

"(c) In connection with the production of that part of any basic agricultural commodity which is required for domestic consumption.

"(4) Whenever, during a period during which any of the powers conferred in subsection (2) or (3) is being exercised, the Secretary of Agriculture has reason to believe that, with respect to any basic agricultural commodity:

"(a) The current average farm price for such commodity is not less than the fair exchange value thereof, and the average farm price for such commodity is not likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, or

"(b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that none of the powers conferred in subsection (2) and (3), and no combination of such powers, would, if exercised, tend to effectuate the declared policy of this title,

He shall cause an immediate investigation to be made to determine such facts. If, upon the basis of such investigation, the Secretary finds the existence of such facts, he shall proclaim such determination, and shall not exercise any of such powers with respect to such commodity after the end of the marketing year current at the time when such proclamation is made and prior to a new proclamation under subsection (1) of this section, except insofar as the exercise of such power is necessary to carry out obligations of the Secretary assumed, prior to the date of such proclamation made pursuant to this subsection, in connection with the exercise of any of the powers conferred upon him under subsections (2) or (3) of this section.

"(5) In the course of any investigation required to be made under subsection (1) or subsection (4) of this section, the Secretary of Agriculture shall hold one or more hearings, and give due notice and opportunity for interested parties to be heard.

"(6) No payment under this title made in an agricultural commodity acquired by the Secretary in pursuance of this title shall be made in a commodity other than that in respect of which the payment is being made. For the purposes of this subsection, hogs and field corn may be considered as one commodity."

[Subsections 7 and 8 are not reproduced here since they relate exclusively to sugar beets or sugarcane and rice, respectively.]

"(9) Under regulations of the Secretary of Agriculture requiring adequate facilities for the storage of any nonperishable agricultural commodity on the farm, inspection and measurement of any such commodity so stored, and the locking and sealing thereof, and such other regulations as may be prescribed by the Secretary of Agriculture for the protection of such commodity and for the marketing thereof, a reasonable percentage of any benefit payment may be advanced on any such commodity so stored. In any such case, such deduction may be made from the amount of the benefit payment as the Secretary of Agriculture determines will reasonably compensate for the cost of inspection and sealing but no deduction may be made for interest."

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